IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 1859 of 2005

Akhil Bhartiya Mathadi, Transport
and General Kamgar Union ..Petitioner

vs.

1. Grocery Markets and Shops
Board and ors. ..Respondents

Shri S.S.Pakale for petitioner
Shri S.R.Nargolkar for respondent no.1
Shri P.N.Anaokar with Shri A.B.Desai for
respondent no.2.
Shri A.K.Jalisatgi for respondent no.3.

CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
14th July,2005

P.C.

1. By this petition the petitioner Union is seeking a direction to respondent no.1 Board to register the establishment of respondent no.2 company with the Board. The petitioner is also seeking a direction to respondent no.1 Board to register the mathadi workers listed at Exh.A to the petition as per Clause 15 of the Grocery Markets or Shops Unprotected Workers (Regulation of Employment and Welfare) Scheme,1970.

2. It is the case of the petitioner that the workers listed at Exh.A are carrying the job of mathadi nature such as loading, unloading, warai, thapi etc. in the establishment of respondent no.2. It is alleged that by not registering its

establishment with respondent no.1 Board, respondent no.2 has violated the provisions of the Grocery Markets or Shops Unprotected Workers (Regulation of Employment and Welfare) Scheme, 1970 as well as the provisions of Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment & Welfare) Act, 1969. It is also alleged that respondent no.2 is illegally denying the work to the workmen at Exh.A from November, 2004.

3. In reply filed on behalf of respondent no.2 company, it is contended that the provisions of the aforesaid Act and Scheme are not applicable to respondent no.2. It is pointed out that the petitioner Union had earlier filed a complaint under the M.R.T.U.and P.U.L.P.Act, 1971 and the complaint was dismissed as not maintainable. It is also pointed out that respondent no.2 is a pharmaceutical industry manufacturing raw material for life savings drugs. The factory of respondent no.2 is, therefore, covered under the provisions of Drugs and Cosmetics Act. It is contended that the company engages its permanent employees to carry out the activities of loading, unloading, stacking etc. and, therefore, no relief can be granted to the petitioner.

4. We have heard the learned counsel appearing for

the parties. The learned counsel appearing for respondent no.1 Board stated that the Board has issued a show cause notice to respondent no.2 and the matter is under consideration of respondent no.1 Board and appropriate decision will be taken by the Board after granting an opportunity of hearing to the petitioner Union and respondent no.2. As the Board is already ceased of the matter, it is not necessary to entertain the present petition. The Board is directed to decide the show cause notice as expeditiously as possible and preferably within three months. The Board shall also consider the request of the petitioner to enroll the workers listed at Exh.A as Mathadi workers. Prayer for continuation of the ad-interim relief is rejected in as much as on their own showing the workers are not in the employment since November, 2004.

5. Petition stands disposed of.